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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,049	01/26/2006	Georges Pilloy	339544US99PCT	2049
22850 7590 08/21/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER LONEY, DONALD J				
ART UNIT 1794		PAPER NUMBER		
NOTIFICATION DATE 08/21/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/566,049

Applicant(s)

PILLOY, GEORGES

Examiner

Donald Loney

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 12-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, 6, 7, 11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Demars (5855638).

Demars discloses a vacuum insulating glazing unit comprising two glass sheets 2, 3 separated by deposits 4, of what can be considered adhesive material (i.e. solder glass), wherein the spacing between the sheets is 0.1-0.3 mm and the distance between deposits are 30mm (3cm) per claims 1 and 11. Refer to figures 1-4 along with column 2, lines 11-32 and column 4, lines 6-41. The solder glass pins are considered an adhesive in its broadest sense since the applicant has not recited a particular adhesive which would distinguish there from. As a teaching thereto, see column 4, lines 36-38 which discloses the pins form a bond with the glass sheets. Since the pins are disclosed as 0.1-0.3 mm thick, the spacing between the glass sheets would be within the applicant's range of 10-500um (0.01-0.5mm). The spacing between the deposits of 3cm is within the applicant's range of 1-10cm. With regards to claims 2, 6 and 7, the spacing between the glass sheets appears to be constant. With regards to claim 4, see column 4, lines 9 and 10. With regards to claim 15, the adhesive pins are heat cured since they are formed of a solder adhesive.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 3, 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demars.

The primary reference teaches the invention substantially as recited except for the specific size of the panel, spacing between the glass sheets and spacing of the deposits per claims 3, 5 and 8, respectively. Demars is silent as to the size of the panel. See the 35 U.S.C. 102 rejection above.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to Demars to form the glazing unit of whatever size is needed for a particular application (i.e. to size the window as desired) since it is known windows come in many different sizes. With regards to claims 5 and 8, since Demars already discloses ranges for these parameters that meet the broader ranges this would

merely involve a change in shape and/or size of an already known feature which is generally considered within ordinary skill in the art. See MPEP 2144.04IV.

6. Claim 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demars in view of FR 2819802 (of which US 2004/0081775 is an English language equivalent thereof).

The primary reference teaches the invention substantially as recited except for the product being a chromogenic glazing containing a conductive layer and suspension between the glass plates. See the 35 U.S.C. 102 rejection above.

However, FR '802 discloses it is known that glazings with spaced apart glass sheets with a plurality of spacers there between are known to form chromogenic glazings.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to Demars to include the required elements of a chromogenic glazing in the glazing structure, as is taught by FR '802, since FR '802 discloses these elements are known to be included in glazings in order to form a chromogenic glazing therefrom. With regards to claim 10, see paragraph [0023] in US 2004/0081775.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Demars in view of Hornung et al (6662523).

The primary reference teaches the invention substantially as recited except for the adhesive being UV curable. See the 35 U.S.C. 102 rejection above.

Hornung et al discloses the adhesive used to seal, or bond glass sheets, in glazings can be either heat or UV curable. See column 4, lines 59-67.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to Demars to use a UV curable adhesive, as is taught by Hornung et al, since this would merely involve substituting one adhesive for another (i.e. heat cured versus UV cured).

Allowable Subject Matter

8. Claims 12-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to teach a process for forming a glazing panel wherein parts of the deposits are applied and allowed to dry then depositing the other parts of the deposits in combination with all the other limitations in claim 11.

Response to Arguments

10. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on 571 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald J. Loney/
Primary Examiner
Art Unit 1794

DJL;D.Loney
08/17/09